A guide to Licensing of Houses in Multiple Occupation in Croydon
Introduction

This booklet is a guide to the Licensing Scheme for ‘Houses in Multiple Occupation’ which came into force in April 2006 under the Housing Act 2004. This Act introduces ‘mandatory HMO licensing’ which covers properties of 3 or more storeys occupied by 5 or more unrelated people who share some facilities. These are typical ‘bedsit’ properties, hostels or shared houses, and also includes properties converted to flats if not all of the flats are self-contained.

The Act also gives the power to local authorities to extend the scope of HMO licensing by adopting ‘selective licensing’. Croydon Council operates a selective licensing scheme referred to as the Croydon private rented property licence (CPRPL) scheme.

Any HMO which doesn't meet the mandatory definition must apply for a Croydon private rented property licence via My Account, accessed through the Council website at www.croydon.gov.uk

Selective licensing operates in exactly the same way as mandatory licensing in that the same HMO requirements will apply regardless of which part of licensing the HMO falls under. Selective licensing has the same legal status as mandatory licensing and the same penalties for non-compliance apply to all areas.

What is a house in multiple occupation?

A house in multiple occupation (HMO) is widely defined in sections 254 to 259 of the Housing Act 2004. In short, a HMO is a property that is occupied by persons who are not related and who share some facilities, and includes several categories:

- Bedsits;
- Shared houses, including those where the owner (and family if applicable) live in the property with more than 2 tenants or lodgers;
- Hostels for homeless persons;
- Some converted self-contained flats;
- Properties that are subject to a HMO declaration.

Within the definition, ‘flat’ and ‘bungalow’ have the same meaning as ‘house’. Part of the new definition, relating to converted properties, means that any building that has been converted to form residential premises can now fall within the definition of HMO, whereas previously only houses that had been converted were deemed to be HMOs. This brings commercial properties such as offices or warehouses that have been converted into flats into the definition.

For bedsits or shared houses, it is the fact that the occupants are unrelated that is the essential element. If this is the case and the tenants are all on a single tenancy agreement, or even if rent is not being paid at all (for example, the property is occupied by persons in connection with their job), the property will still fall within the definition of a HMO.

A HMO declaration may be issued if the Council is satisfied that although not exclusively occupied by people as their main or only home, a building is occupied to a significant degree by such persons (and otherwise the occupation and building satisfies the HMO tests). For example, a hotel may be used in part as a commercial hotel and in part as a hostel for homeless persons or refugees etc.
A converted block of flats is classified as a HMO if the conversion did not comply with the 1991 Building Regulations and less than two-thirds of the flats are owner-occupied.

In all cases, a building is not a HMO if it is occupied only by two persons who form two households. Persons are not regarded as forming a single household unless they are all members of the same family or living together as a couple. The exception to this is domestic staff who live in rent-free accommodation provided by the person for whom they are working.

**What is the purpose of licensing?**

The purpose of licensing is to:

- Require owners or managers of HMOs to licence their premises with the Council;
- Impose conditions as a requirement of licensing where necessary (to ensure that certain standards are met); and
- Give the Council additional powers to require information about HMOs.

The conditions introduced under the licensing scheme are based on the powers available in the Housing Act 2004 and subsequent regulations.

**How does mandatory licensing operate?**

Owners of existing and new HMOs are required to licence their properties with the Council. The council will compile and maintain a register of mandatory licensed HMOs within Croydon. There will be a charge for licensing which will cover the Council's costs in licensing properties.

Mandatory HMO Licensing will not apply to the following HMOs:

- Two or three storey self-contained flats consisting of only 2 flats and 2 households;
- Self-contained flats with no communal circulation areas;
- Bedsits, hostels or shared houses with less than 3 persons.

Exemption is only from licensing, it does not prevent the Council from dealing with a HMO under other powers. The action taken will depend on the risks found at the property.
Do I need Planning Permission?

The Planning Department will be notified of all applications for licensing. (NB: Licensing of a HMO does not imply that Planning Permission has been, or will be given.) HMOs will be expected to comply with the Unitary Development Plan policy. The policy:

- Recognises the value of HMOs in accommodating small households;
- Applies conditions to ensure properties do not have a significant adverse effect on the residential environment; and
- Requires that HMOs must provide ‘adequate amenity for residents and neighbours’.

In other words, properties must be maintained in good order, decorated and blend in with the neighbourhood.

Where a property has been in use as a HMO for more than 10 years, and the owner can prove this to be the case, they may make an application for a ‘certificate of established use’. This will prevent the need for planning permission. Owners must apply for planning permission prior to converting a property for use as a HMO.

Who must apply to licence a HMO?

The owner or manager (responsible person) of a property must apply to licence it under the following circumstances:

- If the property is an EXISTING HMO (existing prior to 1st April 2006) an application to licence is required. This applies both to HMOs which were registered under the previous registration scheme and to those which should have been registered under that scheme but were not.

- If the property is a NEW HMO (new from the 1st April 2006). An application to licence is required before being occupied as a HMO.

In addition to the initial application to licence a HMO,

- After 5 years from the initial licence, an application to RENEW the licence is required, and

- The responsible person must notify the Council of any change which occurs in the licence details during the 5 year period, other than a decrease in the number of occupants. This will be dealt with as an application to VARY the licence details, for which there is no charge.
How to Apply for a mandatory HMO licence

For an application form for a mandatory HMO, you can contact HMO@croydon.gov.uk to request an application form and copies of the relevant standards. Alternatively you may download a copy from the council’s website www.croydon.gov.uk (search “HMO”).

You must then return the completed form, the fee and all required documents and an appointment will usually be made for an officer to inspect the property, although this may not be necessary if we have knowledge that the property already meets the relevant standards (eg if it has been previously registered under the Council’s HMO Registration Scheme).

Applications for licences will be dealt with by the Council within 8 weeks of the application being made.

We will then inform you in writing of any conditions that may be attached to the licence and the length of time for which it has been issued. You will have the chance to make representations at this stage if you do not agree, and any such representations will be considered before the final issuing of the licence.

Before granting a licence the authority has to be satisfied that certain conditions are met, and these are listed under ‘Conditions for Licensing’ on page 10. If the authority is not satisfied that these conditions are met you may be notified that your application has been refused.

Once properties have been licensed they will be subject to a programme of re-inspection at intervals dependant upon the nature and management of the property. It is hoped that owners and tenants will co-operate with the Council’s officers by providing access when required.

**Non-mandatory HMO licence applications:**
For applications for non-mandatory HMOs please see www.croydon.gov.uk and search for CPRPL (Croydon private rented property licence) and apply via My Account.

**The Licence Fee**
Licence fees will be reviewed and amended if necessary on an annual basis and for that reason are not specified within this booklet but are included on a separate sheet, in the form of a fee calculator.

**What can I do if my application is refused, or if I disagree with any conditions?**

The applicant or any relevant person may appeal to a residential property tribunal within 28 days against a decision to refuse to grant a licence or against any terms of the licence. An appeal may also be lodged against any decision to vary or revoke a licence, or a refusal to vary or revoke a licence. If you wish to make an appeal, please see the information on page13 of this booklet.

**Interpretation**


‘authority’ means Croydon Council.
‘house’ has the same meaning as in section 99 of the 2004 Act.

‘house in multiple occupation’ has the same meaning as sections 254 to 259 of the 2004 Act and ‘multiple occupation’ shall be construed accordingly. The definition applies equally to flats and bungalows.

‘person having control’ and ‘person managing’ have the same meaning as section 263 of the 2004 Act. These are broadly the person in receipt of the rent (whether or not any is actually being paid) either on their own behalf or as the agent for another person.

‘responsible person’ means the person having control or the person managing.

‘storey’ means any storey in the building, including a basement or any storey used for commercial purposes.

Area of HMO Licensing
The mandatory HMO licensing schemes and selective licensing schemes shall apply to the whole of the London Borough of Croydon.

Application
Mandatory HMO Licensing will not apply to:

- Any building where the person managing or having control of it is –
  - A local housing authority
  - A body which is a registered social landlord
  - A police authority
  - A fire and rescue authority
  - A health service body

- Any building occupied by persons who are full time students at a specified educational establishment, where the building is managed by the educational establishment in question;

- Any building occupied principally for the purposes of a religious community (note: buildings used in this manner which are converted self-contained flats which would fall within HMO Licensing are not exempt under this section);

- Any house which is occupied by less than 3 persons;

- Any house which is occupied by no more than 2 persons in addition to the responsible person and any other member of their household;

- Any building converted entirely to self-contained flats with no communal facility, although selective licensing will apply to any individual flats that is privately rented.

- Any building subject to a Temporary Exemption Notice under Section 62 of the Act;

- Any building subject to an Interim or Final Management Order under Chapter 1, Part 4 of the Act.
Authority given by the Act
The local authority must compile and maintain a register of all mandatory houses in multiple occupation which are subject to Licensing. The register is a public document and can be viewed upon request to the Council.

Particulars to be inserted in the register
Each entry in the register in respect of a house shall contain the following particulars, which will be collected from the licence application form:

- Name and address of the licence holder and the manager;
- Address of the premises and a short description of the property;
- A summary of the licence conditions, the commencement date and duration of the licence;
- Details of any matter that has been referred to the Residential Property Tribunal or the Lands Tribunal and any decisions made by those tribunals;
- The number of storeys;
- The number of rooms used as sleeping and living accommodation;
- A description of any shared amenities and the number of those amenities;
- The maximum number of persons and households permitted to occupy the HMO under the conditions of the licence.

The Procedure for HMO Licensing

1. The responsible person of a HMO must apply to licence the house with the authority.

2. On a first application for licensing, the responsible person must:
   a) give the authority the particulars of the house specified in the preceding paragraph,
   b) provide to the authority the required documents as specified in the application form,
   c) provide to the authority supporting documents of any accreditation of the proposed licence holder,
   d) pay a fee of a reasonable amount determined by the authority.

3. Licensing will usually be for an initial period of 5 years and may be renewed for further periods of 5 years at a time. In some circumstances the licence may be issued for a lesser period of time, eg if the authority have concerns about any aspects of the management of the property. In such cases the fee charged will be pro rata of the relevant 5 year fee.

4. On or before the expiry of a period of licensing, the responsible person must apply for renewal of the licence.

5. On the renewal of a licence, the responsible person must –
   a) notify the authority of any changes in the particulars entered in the register in respect of the house, and
b) pay a reduced fee.

6. During the licence period, the responsible person must notify the authority of any change in the particulars entered in the register which makes it necessary to alter those particulars, apart from a decrease in the number of occupants or households.

7. A licence may not relate to more than one HMO.

8. A licence may not be transferred to another person.

9. If the licence holder dies while the licence is in force, the licence ceases to be in force on their death. However, for a period of 3 months following the death of a licence holder, the house will be treated as if a temporary exemption notice had been issued on that date.

Conditions for Licensing

Where an application for a licence is received, the local authority may either grant a licence to the applicant or to some other person (if both agree) or refuse to grant a licence. Before granting a licence the local authority must be satisfied that the following criteria are met:

- That the house is reasonably suitable for occupation by not more than the maximum number of households or persons specified either in the application or decided by the authority. This means that the house must meet, or must be able to meet, certain standards regarding room sizes, cooking facilities and bathing/toilet facilities.

- That the proposed licence holder is a fit and proper person to be the licence holder. To decide this, the local authority will have regard to any evidence showing that the person has committed certain criminal offences, practised unlawful discrimination, contravened any Housing or Landlord and Tenant Law or has not complied with any relevant approved codes of practice. In addition, the authority will also have regard to any evidence showing that any person associated or formerly associated with the proposed licence holder has done any of these things and whether or not that evidence is relevant to the question of whether the proposed licence holder is a fit and proper person.

- That the proposed manager of the house is either the person having control of the house
  - or a person who is employed by the person having control, and is themselves a fit and proper person to be the manager of the house (see previous paragraph for the tests to be applied).

- That the proposed management arrangements for the house are otherwise satisfactory. In addition to the ‘fit and proper’ test, consideration will be given to the level of competence of the proposed manager and the suitability of any proposed management structures and funding.

Once the authority has decided, taking the above into consideration, that a licence may be granted, the licence will be issued and will include certain conditions to regulate the management, use and occupation and condition and contents of the house. Conditions that will be included on all licenses include the following:
• The annual production of a gas safety certificate (where applicable),
• A requirement for the licence holder to keep electrical appliances and furniture supplied by them within the house in a safe condition, and to supply a declaration to that effect,
• A requirement to install smoke alarms and to keep them in proper working order, and to supply a declaration as to the condition and position of the alarms,
• A requirement for the licence holder to supply a written statement of the terms of occupation to all occupiers.

In addition to the above, conditions may be imposed for other relevant matters, eg for the licence holder or manager to attend training courses or to provide additional facilities within the house.

**Variation or Revocation of Licences**

The authority may, at any time during the period of the licence (whether or not an application has been made) vary the licence with respect to the number of permitted persons or households.

The authority may also revoke a licence under the following circumstances:-

With the agreement of the licence holder;

Where the licence holder or any other person has committed a serious breach or repeated breaches of a licence condition;

Where the authority no longer consider the licence holder to be a fit and proper person;

Where the authority consider that the person managing the property is no longer a fit and proper person;

Where the property ceases to be a HMO;

Where the authority consider that the property is no longer reasonably suitable to be occupied by the maximum number of persons or households specified on the licence.

**Offences and Penalties Relating to HMO Licensing**

A person who is in control of or managing a HMO commits an offence under the following circumstances:

For failing to licence a HMO which requires a licence. The maximum penalty on conviction is £20,000.

For knowingly permitting a person to occupy the HMO when that person’s occupation results in the house being occupied by more than the permitted number of persons or households as specified on the licence. The maximum penalty on conviction is £20,000.

For failing to comply with any conditions on the licence. The maximum penalty on conviction is £5,000.

In addition to the legal action outlined above, other sanctions may be taken regarding HMOs as follows.
Rent Repayment Orders

In certain circumstances relating to the operation of unlicensed HMOs the Council may apply to a residential property tribunal for a ‘rent repayment order’. A rent repayment order is an order requiring that any housing benefit paid in respect of any tenant in the HMO is paid to the Council rather than the landlord.

Management Orders

If a HMO which is required to be licensed is not so licensed, the Council must make an Interim Management Order if it is considered that either:

- There is no reasonable prospect of the property being licensed in the near future, or
- The health, safety or welfare of the occupants is in need of protection.

The Council must also make an Interim Management Order if a HMO is licensed but the licence has been revoked, although the revocation is not yet in force, and it is considered that either:

- Once the revocation comes into force there will be no reasonable prospect of the property being licensed in the near future, or
- Once the revocation comes into force, the health, safety or welfare of the occupants will be in need of protection.

The Council has a duty under certain circumstances, and a power under other circumstances, to proceed to make a Final Management Order in respect of a HMO which is subject to an Interim Management Order.

Summary of Other Powers under the Housing Act 2004

The Act brought in a new system of inspecting residential properties to assess the effect of any defects within the property on the health and safety of the occupant. The system is the Housing Health and Safety Rating System (HHSRS) which replaces the test of fitness for human habitation contained within the Housing Act 1985.

The HHSRS is a risk assessment based method of inspection which takes account of 29 potential hazards (to health and/or safety) arising from deficiencies within or around the dwelling.

Some examples are damp and mould, excess cold, falls, food hygiene, fire and entry by intruders. Each hazard is scored on a banding system (which takes into account the average condition of properties throughout the UK) to calculate the overall score for the property.

The scoring system determines whether the hazards are ‘Category 1’ or ‘Category 2’, with the category 1 hazards posing the highest potential risk to the health and safety of the occupants. The authority has a duty to take enforcement action to remedy category 1 hazards, and a power to take enforcement action to remedy category 2 hazards. The potential courses of action are as follows:
• Serving a notice under Section 11 or 12 of the Act – Improvement Notice in respect of category 1 or category 2 hazards. This notice requires the person on whom it is served to take specified remedial action within a certain time to remedy the hazards.

• Serving a notice under Section 20 or 21 of the Act – Prohibition Order in respect of category 1 or category 2 hazards. This order imposes a prohibition on the use of the dwelling or part of the dwelling.

• Serving a notice under Section 28 or 29 of the Act – Hazard Awareness Notice in respect of category 1 or 2 hazards. This is a notice advising the person on whom it is served of the existence of hazards within the property. It does not require any works to be carried out.

• Serving a notice under Section 41 or 43 of the Act – Emergency Remedial Action or Emergency Prohibition Order.

• Serving a notice under Section 139 – Overcrowding Notice in respect of a HMO to prevent or reduce overcrowding.

Management of HMOs

The Management of HMOs (England) Regulations 2006 require managers of HMOs to manage and maintain the properties and specifically to be aware of the following:

• The manager’s name, address and contact telephone number must be made available to each occupant.

• Safety measures – all means of escape from fire must be kept free from obstruction and maintained in good repair, all fire fighting equipment and alarms must be maintained in good working order, all escape signs are to be clearly visible, all other reasonable measures to protect the occupants from injury must be taken.

• Water supply and drainage – all means of water supply and drainage is maintained in good, clean and working condition, protected from frost, and must not be unnecessarily interrupted.

• Supply of gas and electricity – such supplies must not be unnecessarily interrupted and as such must not be provided through key or card meters. In addition, gas installations must be tested annually and electrical installations tested at least every 5 years. Certificates of these tests must be obtained and available on request.

• Common parts and installations – all common parts and installations must be maintained in good, clean, safe and working condition.

• Living accommodation – each unit of living accommodation and any furniture supplied with it must be in clean condition at the beginning of each term of letting. The internal structure, installations and windows must be kept in good order throughout.

• Waste disposal – sufficient bins must be provided and refuse and litter properly disposed of.

The management regulations also place certain duties on the occupiers of HMOs.
There is no power for the authority to serve enforcement notices if breaches of the management regulations are committed.

If a person fails to comply with any of these regulations they will have committed an offence, which carries a maximum fine, on conviction, of £5,000.

Landlords are advised to obtain a copy of the regulations to understand the full requirements.

The reference is Statutory Instrument 2006 No. 372 and this can be downloaded free of charge from the following website www.opsi.gov.uk

In addition to the above, owners and managers should be aware of and comply with the requirements of the following regulations:

The Gas Safety (Installation and Use) Regulations 1994 (as amended) which place duties on gas consumers, installers, suppliers and landlords in relation to the installation, repair, maintenance and inspection of gas appliances.

The Furniture and Furnishings (Fire Safety) Regulations 1988 (as amended) which sets levels of fire resistance for domestic upholstered furniture, furnishings and other products containing upholstery.


Further Advice
Further advice may be obtained as follows:

For advice regarding HMOs, fire safety and amenity standards contact the HMO team on: 0208 726 6000 Ext: 61450

Non-mandatory HMO licence applications:
For applications for non-mandatory HMOs please see www.croydon.gov.uk and search for CPRPL (Croydon private rented property licence) and apply via My Account.

Telephone: Property Licensing on 020 8726 6103  Email: propertylicensing@croydon.gov.uk

Operation of the mandatory HMO licensing scheme:
Place Department
Safety Division
Housing standards and enforcement
Bernard Weatherill House
8 Mint Walk
Croydon
CR0 1EA

Telephone: 020 8726 6000 ext 61450
Email: HMO@croydon.gov.uk

Planning Aspects:
Planning and Transportation
Bernard Weatherill House
8 Mint Walk
Croydon
CR0 1EA
North Team: 020 8760 5403
South Team: 020 8760 5404
E-mail: PLANNINGCONTROL@croydon.gov.uk

Housing Advice/Tenancy Relations:
Housing Advice
Place Department
Bernard Weatherill House
8 Mint Walk
Croydon
CR0 1EA
Telephone: 020 8726 6100 ext. 62116
E-mail: HSG-ADVICE@croydon.gov.uk

First Tier Tribunal
10 Alfred Place
London, WC1E 7LR
Telephone: 020 7446 7700
E-mail: london.rap@odpm.gsi.gov.uk

Department for Communities and Local Government:
www.communities.gov.uk